

REMARKS

A. Claims

The claims presented for examination are Claims 13, 15(13), 20(13), 21(20)(13), 22(13), 23(22)(13), 31(22)(13), 32, 33(32), 34(32), 39(32), 40(32), 43(32), 48(32), 49(48)(32), 50(49)(48)(32), 51(50)(49)(48)(32), 52, 53(52), 54(53)(52), 55(52), 56(52), 61(52), 62(61), 65(52), 70(52), 71(70)(52), 72(71)(70)(52), and 73(72)(71)(7))(52), all directed to a process for preparing thermally-inhibited starches or flours where the dehydration step is a "thermal" dehydration. Claim 13 is directed to a starch or flour, whereas Claims 32 and 52 are limited to starches. Claim 52 includes the additional step of the pH adjustment. The optional pH adjustment of the starches or flours is covered in Claims 22 and 23 which depend on Claim 13.

Claims directed to "non-thermal" dehydration, as well as the claims directed to the additional extraction step for improving the flavor and/or color of the inhibited starch or flour and claims directed to the "protein and/or lipid removal" from the starch or flour, have been cancelled and will be presented in a continuation application. These claims include Claims 35-38, 44-47, and 57-60.

B. Objections

Improper Numbering

Claims 62-103 were objected to as not being in accordance with 37 CFR 1.126 in that the numbering was not consecutive beginning with the number next following the highest numbered claim previously presented. The Examiner is thanked for renumbering Claims 62-103 as Claim 32-73.

Improper Dependent Claims

Claims 40 and 42 were objected to as improper dependent claims which fail to further limit the subject matter of a previous claim. Claim 42, which should have depended on Claim 41, not Claim 45, has been cancelled. Claim 40 has been amended to depend on Claim 32, not Claim 42.

C. Double Patenting Rejection

Claim 12 was rejected under § 101 as claiming the same invention as Claim 1 of U.S. 5,932,017. Claim 12 has been cancelled.

D. Obviousness Type Double Patenting Rejection

Claims 13, 15, 20, 22, 23, 29, 32, 43, 52, 53, 54, 56, 61, and 65 were rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-6 of U.S. Patent No. 5,725,676 which claims a process for making a thermally-inhibited, non-pregelatinized granular starch.

Applicants are submitting herewith a Terminal Disclaimer to overcome this rejection.

E. Closing

In view of the amendment of Claim 40 and cancellation of Claim 42, the objection to Claims 40 and 42 as improper dependent claims should be moot. In view of the cancellation of Claim 12, the double patenting rejection should be moot. In view of the submission of a Terminal Disclaimer, the rejection of Claims 13, 15, 20, 22, 23, 32, 39, 43, 52, 53, 54, 56, 61 and 65 over U.S. 5,725,676 should be overcome.

Reconsideration of the remaining claims and an early allowance is respectfully requested.

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Respectfully submitted,

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